



THE ATTORNEY GENERAL OF TEXAS

JOHN L. HILL
ATTORNEY GENERAL

AUSTIN, TEXAS 78711

July 29, 1976

The Honorable H. Q. Sibley
Executive Director
Texas Animal Health Commission
1020 Sam Houston State Office
Building
Austin, Texas 78701

Opinion No. H-854

Re: Authority of Texas
Animal Health Commission
to indemnify owners of
swine infected with
pseudorabies which have
been slaughtered on order
of the Commission.

Dear Doctor Sibley:

You have requested our opinion regarding the authority of the Texas Animal Health Commission to indemnify owners of swine infected with pseudorabies. Article 7014f-1, V.T.C.S., authorizes the Commission

to order swine infected with, or exposed to, vesicular exanthema, foot and mouth disease, hog cholera and other diseases of swine to be sold for immediate slaughter at public slaughtering establishments where federal post mortem inspection is maintained; or the Commission may authorize such slaughter upon the owner's property, premises or other place under the direction of said Commission. Section 22a(4).

Furthermore, the succeeding subsection provides that

[a]fter such sale and slaughter of swine infected with or exposed to vesicular exanthema, foot and mouth disease, and hog cholera, the Commission is authorized to pay the owner of such swine out of funds appropriated by the Legislature for that purpose in an amount not to exceed fifty

per cent (50%) of the appraised value of such animals after deducting the amount of salvage received for them by the owner. Section 22a(5).

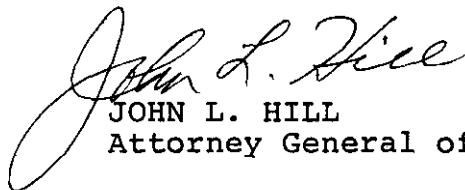
You state that pseudorabies is a highly infectious swine disease which has been diagnosed in a herd of swine within the state.

If pseudorabies is a swine disease, it comes within the provisions of subsection (4), which permits the Commission to order the sale and immediate slaughter of swine infected with or exposed to "other diseases." The Commission's authority under the indemnification provision, however, is limited to those diseases specifically enumerated therein, and unlike subsection (4) does not include "other diseases." Whether we deal here with legislative oversight or legislative intent is not known to us, but the statute as written is clear.


S U M M A R Y

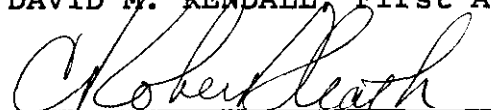
Under the present wording of the statute, the Texas Animal Health Commission is authorized to order the sale and immediate slaughter of swine infected with or exposed to pseudorabies, but it may not indemnify the owner of the swine therefor.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

jwb